

Calendar No. 45

106TH CONGRESS
1ST SESSION

S. 243

[Report No. 106-18]

To authorize the construction of the Perkins County Rural Water System and authorize financial assistance to the Perkins County Rural Water System, Inc., a nonprofit corporation, in the planning and construction of the water supply system, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 19, 1999

Mr. JOHNSON (for himself and Mr. DASCHLE) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

MARCH 17, 1999

Reported by Mr. MURKOWSKI, without amendment

A BILL

To authorize the construction of the Perkins County Rural Water System and authorize financial assistance to the Perkins County Rural Water System, Inc., a nonprofit corporation, in the planning and construction of the water supply system, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Perkins County Rural
3 Water System Act of 1999”.

4 **SEC. 2. FINDINGS AND PURPOSES.**

5 (a) FINDINGS.—Congress finds that—

6 (1) there are insufficient water supplies of rea-
7 sonable quality available to the members of the Per-
8 kins County Rural Water System located in Perkins
9 County, South Dakota, and the water supplies that
10 are available do not meet minimum health and safe-
11 ty standards, thereby posing a threat to public
12 health and safety;

13 (2) in 1977, the North Dakota State Legisla-
14 ture authorized and directed the State Water Com-
15 mission to conduct the Southwest Area Water Sup-
16 ply Study, which included water service to a portion
17 of Perkins County, South Dakota;

18 (3) amendments made by the Garrison Diver-
19 sion Unit Reformulation Act of 1986 (Public Law
20 101–294) authorized the Southwest Pipeline project
21 as an eligible project for Federal cost share partici-
22 pation;

23 (4) the Perkins County Rural Water System
24 has continued to be recognized by the State of North
25 Dakota, the Southwest Water Authority, the North
26 Dakota Water Commission, the Department of the

1 Interior, and Congress as a component of the South-
2 west Pipeline Project; and

3 (5) the best available, reliable, and safe rural
4 and municipal water supply to serve the needs of the
5 Perkins County Rural Water System, Inc., members
6 is the waters of the Missouri River as delivered by
7 the Southwest Pipeline Project in North Dakota.

8 (b) PURPOSES.—The purposes of this Act are—

9 (1) to ensure a safe and adequate municipal,
10 rural, and industrial water supply for the members
11 of the Perkins County Rural Water Supply System,
12 Inc., in Perkins County, South Dakota;

13 (2) to assist the members of the Perkins Coun-
14 ty Rural Water Supply System, Inc., in developing
15 safe and adequate municipal, rural, and industrial
16 water supplies; and

17 (3) to promote the implementation of water
18 conservation programs by the Perkins County Rural
19 Water System, Inc.

20 **SEC. 3. DEFINITIONS.**

21 In this Act:

22 (1) FEASIBILITY STUDY.—The term “feasibility
23 study” means the study entitled “Feasibility Study
24 for Rural Water System for Perkins County Rural
25 Water System, Inc.”, as amended in March 1995.

1 (2) PROJECT CONSTRUCTION BUDGET.—The
2 term “project construction budget” means the de-
3 scription of the total amount of funds that are need-
4 ed for the construction of the water supply system,
5 as described in the feasibility study.

6 (3) PUMPING AND INCIDENTAL OPERATIONAL
7 REQUIREMENTS.—The term “pumping and inci-
8 dental operational requirements” means all power
9 requirements that are incidental to the operation of
10 intake facilities, pumping stations, water treatment
11 facilities, cooling facilities, reservoirs, and pipelines
12 to the point of delivery of water by the Perkins
13 County Rural Water System to each entity that dis-
14 tributes water at retail to individual users.

15 (4) SECRETARY.—The term “Secretary” means
16 the Secretary of the Interior, acting through the
17 Commissioner of the Bureau of Reclamation.

18 (5) WATER SUPPLY SYSTEM.—The term “water
19 supply system” means the Perkins County Rural
20 Water System, Inc., a nonprofit corporation, estab-
21 lished and operated substantially in accordance with
22 the feasibility study.

1 **SEC. 4. FEDERAL ASSISTANCE FOR WATER SUPPLY SYS-**
2 **TEM.**

3 (a) IN GENERAL.—The Secretary shall make grants
4 to the water supply system for the Federal share of the
5 costs of—

6 (1) the planning and construction of the water
7 supply system; and

8 (2) repairs to existing public water distribution
9 systems to ensure conservation of the resources and
10 to make the systems functional under the new water
11 supply system.

12 (b) SERVICE AREA.—The water supply system shall
13 provide for safe and adequate municipal, rural, and indus-
14 trial water supplies, mitigation of wetlands areas, repairs
15 to existing public water distribution systems, and water
16 conservation in Perkins County, South Dakota.

17 (c) AMOUNT OF GRANTS.—Grants made available
18 under subsection (a) to the water supply system shall not
19 exceed the Federal share under section 10.

20 (d) LIMITATION ON AVAILABILITY OF CONSTRUC-
21 TION FUNDS.—The Secretary shall not obligate funds for
22 the construction of the water supply system until—

23 (1) the requirements of the National Environ-
24 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)
25 are met with respect to the water supply system;
26 and

1 (2) a final engineering report and a plan for a
2 water conservation program have been prepared and
3 submitted to Congress for a period of not less than
4 90 days before the commencement of construction of
5 the system.

6 **SEC. 5. MITIGATION OF FISH AND WILDLIFE LOSSES.**

7 Mitigation of fish and wildlife losses incurred as a
8 result of the construction and operation of the water sup-
9 ply system shall be on an acre-for-acre basis, based on eco-
10 logical equivalency, concurrent with project construction,
11 as provided in the feasibility study.

12 **SEC. 6. USE OF PICK-SLOAN POWER.**

13 (a) IN GENERAL.—From power designated for future
14 irrigation and drainage pumping for the Pick-Sloan Mis-
15 souri River Basin Program, the Western Area Power Ad-
16 ministration shall make available the capacity and energy
17 required to meet the pumping and incidental operational
18 requirements of the water supply system during the period
19 beginning May 1 and ending October 31 of each year.

20 (b) CONDITIONS.—The capacity and energy described
21 in subsection (a) shall be made available on the following
22 conditions:

23 (1) The water supply system shall be operated
24 on a not-for-profit basis.

1 (2) The water supply system shall contract to
2 purchase its entire electric service requirements, in-
3 cluding the capacity and energy made available
4 under subsection (a), from a qualified preference
5 power supplier that itself purchases power from the
6 Western Area Power Administration.

7 (3) The rate schedule applicable to the capacity
8 and energy made available under subsection (a) shall
9 be the firm power rate schedule of the Pick-Sloan
10 Eastern Division of the Western Area Power Admin-
11 istration in effect when the power is delivered by the
12 Administration.

13 (4) It shall be agreed by contract among—

14 (A) the Western Area Power Administra-
15 tion;

16 (B) the power supplier with which the
17 water supply system contracts under paragraph
18 (2);

19 (C) the power supplier of the entity de-
20 scribed in subparagraph (B); and

21 (D) the Perkins County Rural Water Sys-
22 tem, Inc.;

23 that in the case of the capacity and energy made
24 available under subsection (a), the benefit of the
25 rate schedule described in paragraph (3) shall be

1 passed through to the water supply system, except
2 that the power supplier of the water supply system
3 shall not be precluded from including, in the charges
4 of the supplier to the water system for the electric
5 service, the other usual and customary charges of
6 the supplier.

7 **SEC. 7. NO LIMITATION ON WATER PROJECTS IN STATES.**

8 This Act does not limit the authorization for water
9 projects in South Dakota and North Dakota under law
10 in effect on or after the date of enactment of this Act.

11 **SEC. 8. WATER RIGHTS.**

12 Nothing in this Act—

13 (1) invalidates or preempts State water law or
14 an interstate compact governing water;

15 (2) alters the rights of any State to any appro-
16 priated share of the waters of any body of surface
17 or ground water, whether determined by past or fu-
18 ture interstate compacts or by past or future legisla-
19 tive or final judicial allocations;

20 (3) preempts or modifies any Federal or State
21 law, or interstate compact, dealing with water qual-
22 ity or disposal; or

23 (4) confers on any non-Federal entity the abil-
24 ity to exercise any Federal right to the waters of any
25 stream or to any ground water resource.

1 **SEC. 9. FEDERAL SHARE.**

2 The Federal share under section 4 shall be 75 percent
3 of—

4 (1) the amount allocated in the total project
5 construction budget for the planning and construc-
6 tion of the water supply system under section 4; and

7 (2) such sums as are necessary to defray in-
8 creases in development costs reflected in appropriate
9 engineering cost indices after March 1, 1995.

10 **SEC. 10. NON-FEDERAL SHARE.**

11 The non-Federal share under section 4 shall be 25
12 percent of—

13 (1) the amount allocated in the total project
14 construction budget for the planning and construc-
15 tion of the water supply system under section 4; and

16 (2) such sums as are necessary to defray in-
17 creases in development costs reflected in appropriate
18 engineering cost indices after March 1, 1995.

19 **SEC. 11. CONSTRUCTION OVERSIGHT.**

20 (a) AUTHORIZATION.—The Secretary may provide
21 construction oversight to the water supply system for
22 areas of the water supply system.

23 (b) PROJECT OVERSIGHT ADMINISTRATION.—The
24 amount of funds used by the Secretary for planning and
25 construction of the water supply system may not exceed
26 an amount equal to 3 percent of the amount provided in

1 the total project construction budget for the portion of the
2 project to be constructed in Perkins County, South Da-
3 kota.

4 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

5 There are authorized to be appropriated—

6 (1) \$15,000,000 for the planning and construc-
7 tion of the water system under section 4; and

8 (2) such sums as are necessary to defray in-
9 creases in development costs reflected in appropriate
10 engineering cost indices after March 1, 1995.

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